

(h) *Maintenance of branch office after conversion, consolidation, purchase of bulk assets, merger or purchase from receiver.* (1) An existing association which converts to a Federal savings association may maintain an existing office, and a Federal savings association that acquires offices through consolidation, purchase of bulk assets, merger or purchase from the receiver of an association may maintain any acquired office, except to the extent the approval by the OTS of the conversion, consolidation, merger, or purchase specifies otherwise.

(2) A Federal savings association may not file a branch application after having filed an application to merge or otherwise surrender its Federal charter, unless the merger or conversion application has been pending for at least six months.

[54 FR 49492, Nov. 30, 1989, as amended at 55 FR 13512, Apr. 11, 1990; 57 FR 14341, Apr. 20, 1992; 57 FR 37084, Aug. 18, 1992; 62 FR 64145, Dec. 4, 1997; 63 FR 65682, Nov. 30, 1998; 66 FR 13006, Mar. 2, 2001; 66 FR 65820, Dec. 21, 2001]

§ 545.93 Branching by Federal savings associations.

(a) *General.* A Federal association may branch in any state or states of the United States and its territories, except as provided in paragraph (b) of this section, subject to the requirements of paragraph (c) of this section.

(b) *Limitations.* No branching will be permitted under paragraph (a) of this section that will result in the following:

(1) Establishment or operation of a branch outside the state in which the association has its home office in violation of section 5(r) of the Home Owners' Loan Act;

(2) Formation by any company of a multiple savings and loan holding company controlling savings associations in more than one state in violation of section 10(e)(3) of the Home Owners' Loan Act; or

(3) Acquisition of a savings association and the establishment and operation of new branches by such savings association in violation of section 13(k)(4) of the Federal Deposit Insurance Act.

(c) *Branching applications*—(1) *General.* Prior to opening a branch, an as-

sociation must obtain approval of a branching application pursuant to § 545.92 of this chapter. The Office may approve or deny an application based on information available from any source and supervisory objection may be interposed at any point during the processing of the application. In granting supervisory clearance to an applicant, the Office will consider whether the policies, condition, and operation of the applicant are satisfactory and afford no basis for supervisory objection.

(2) *Regulatory capital.* For supervisory clearance, an association's regulatory capital should meet or exceed the minimum requirements established by law and applicable regulations of the Office upon acquisition or establishment of the proposed branch or branches, except as otherwise permitted under section 38(e)(4) of the Federal Deposit Insurance Act.

(3) *Community reinvestment.* Pursuant to the Community Reinvestment Act of 1977 (12 U.S.C. 2901), the Office encourages savings associations to help meet in an affirmative and continuing manner the credit needs of all communities in which they do business, including low- and moderate-income neighborhoods, consistent with safe and sound operation. The Office will evaluate an applicant's record under part 563e of this chapter, may deny an application based on the assessment of the association's CRA record, and may approve a branch application on the condition that the association improve specific aspects of its community investment-related practices and performance to the satisfaction of the Office. However, in most cases, commitments by an applicant to improve its record of compliance with the CRA shall not be regarded as sufficient to overcome a seriously deficient CRA record at the time of application.

(4) *Comment procedures.* Comments on applications for branches must be submitted in writing and factually documented. Comment procedures are set forth in subpart C of part 516 of this chapter, § 563e.29 (c) and (d) of this chapter, the OTS Application Processing Handbook, and other supervisory guidance issued by the OTS.

(5) *Expiration of approvals.* If an association does not open a branch within the time specified in the approval, and the Director or his or her designee finds that the association is not making a good-faith effort to open the branch promptly, the approval will be deemed to have expired and the association will be required to reapply if it wants to branch in that location.

(d) *Federal preemption.* This exercise of the OTS's authority is preemptive of any state law purporting to address the subject of branching by a Federal savings association.

[57 FR 12207, Apr. 9, 1992, as amended at 60 FR 66718, Dec. 26, 1995; 62 FR 64146, Dec. 4, 1997. Redesignated at 66 FR 65820, Dec. 21, 2001]

§ 545.95 Change of office location and redesignation of offices.

(a) *Eligibility.* A Federal savings association may change the permanent location of its home office or any approved branch office, or redesignate a home or branch office subject to the appropriate expedited or standard treatment procedures for establishing a branch office set forth in § 545.92 of this part.

(b) *Processing of application.* (1) Processing of an application for a change of office location or redesignation of a home or branch office shall follow the procedures set forth in § 545.92 of this part, except that:

(i) The applicant shall publish the required newspaper notice of application in the applicant's home office community, the community to be served by the new office, and the community where the office is to be closed or the home office is to be redesignated as a branch; and

(ii) The applicant shall post notice of the application for 25 days from the date of first publication in a prominent location in the office to be closed or redesignated.

(2) The OTS may approve an amendment to an association's charter in connection with approval of a home office relocation or redesignation under this section.

(c) *Short-distance relocations.* (1) Notwithstanding paragraph (a) of this section, an association may change the permanent location of a home or

branch office, without applying for approval by the OTS, to a site within the market area and short-distance relocation area of the office site that has been approved in accordance with § 545.92 of this part or paragraph (a) of this section. The short-distance relocation area of an office site is:

(i) The area within a 1,000-foot radius of the site if it is located within a central city of a Metropolitan Statistical Area ("MSA") designated by the U.S. Department of Commerce;

(ii) The area within a one-mile radius of the site if it is located within an MSA designated by the U.S. Department of Commerce but not within a central city; or

(iii) The area within a two-mile radius of the site if it is not located within a MSA.

(2) An association shall notify the OTS in writing at least 30 days before such an office relocation and may proceed with the relocation unless, within 30 days of receipt of the notice, the OTS notifies the association that the relocation does not satisfy the criteria set forth in the first sentence of paragraph (c)(1) of this section, in which case the association must file an application and obtain approval by the OTS in accordance with paragraph (b) of this section.

[57 FR 14341, Apr. 20, 1992, as amended at 62 FR 64146, Dec. 4, 1997]

§ 545.96 Agency office.

(a) *General.* A Federal savings association may establish or maintain an agency office that engages only in one or more of the following activities: (1) Servicing or originating (but not approving) loans and contracts; (2) managing or selling real estate owned by the Federal savings association; or (3) conducting fiduciary activities or activities ancillary to the association's fiduciary business in compliance with subpart A of part 550 of this chapter.

(b) *Additional services.* Except for payment on savings accounts, offering of any services not listed in paragraph (a) of this section may be approved by the OTS.

(c) *Records.* An agency office shall maintain records of all business it transacts and transmit copies to a